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13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**  
15 **WESTERN DIVISION**  
16

17 IN RE: COUNTRYWIDE FINANCIAL  
CORP. MORTGAGE-BACKED  
18 SECURITIES LITIGATION

Case No. 11-ML-02265-MRP (MANx)

19 THRIVENT FINANCIAL FOR  
20 LUTHERANS, et. al.,

Case No. 11-CV-7154-MRP (MANx)

21 Plaintiffs,

22 v.

23 COUNTRYWIDE FINANCIAL  
CORPORATION, et al.,

24 Defendants.  
25  
26  
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28

**REPLY MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF DAVID SAMBOL'S  
MOTION TO DISMISS THE  
AMENDED COMPLAINT**

Date: May 17, 2012  
Time: 11:00 a.m.  
Courtroom: 12  
Judge: Hon. Mariana R. Pfaelzer

1 Plaintiff's Opposition does not dispute that the only claims against Mr.  
 2 Sambol—for aiding and abetting fraud and negligent misrepresentation—should be  
 3 dismissed with prejudice for the reasons stated in the Court's February 17  
 4 Dismissal Order. *See Thrivent Financial for Lutherans v. Countrywide Fin. Corp.*,  
 5 No. 2:11-CV-07154, slip op. at 10:9-12:20 (C.D. Cal. Feb. 17, 2012) [Dkt. 170].  
 6 Plaintiff's only response to Mr. Sambol's motion to dismiss the Amended  
 7 Complaint is to "incorporate[] its arguments in opposition to Defendants' previous  
 8 motions to dismiss, as well as the arguments in *Allstate II*, . . . for the purposes of  
 9 preserving appellate rights." Opp'n at 2:17-20.<sup>1</sup>

10 The Court should dismiss the Amended Complaint against Mr. Sambol with  
 11 prejudice. *See Pratts v. Sunjan*, No. 97-55622, 1999 WL 274662, at \*1 (9th Cir.  
 12 Apr. 23, 1999) (failure to amend deficient claims results in dismissal with  
 13 prejudice). In the alternative, the Court should dismiss the Amended Complaint for  
 14 lack of personal jurisdiction.

15 Dated: May 4, 2012

Respectfully submitted,

16 ORRICK, HERRINGTON & SUTCLIFFE LLP

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 18 By: /s/ Michael C. Tu  
 19 Michael C. Tu

20 Attorneys for Defendant David Sambol

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 27 <sup>1</sup> As the Court recently recognized, it is improper for plaintiff to purport to  
 28 incorporate arguments from *Allstate II* by reference. *See* Minute Order dated  
 April 26, 2012 [Dkt. No. 185].